

OPINION
58-82

February 4, 1958 (OPINION)

COURTS

RE: Mileage for Jury

This is in reply to your letter of January 30, 1958, requesting an opinion relative to the question of whether the county is obligated or justified in paying mileage twice for the same term of court when the court was recessed for a period of five days and the entire jury panel was excused during recess.

Section 4 of chapter 200 of the 1955 S.L. states that the amount for mileage that a juror shall receive to be:

"4. Traveling expenses, payable by the county, of seven and one-half cents per mile for each mile actually and necessarily traveled each way."

In tracing the history of the statute we note that there have been no changes in the language of the statute that would help determine the question. We have found no cases in point that decide the question. We have noted that generally the jurors are paid mileage for one trip each way and are not compensated if they return home while they are excused. Of course, this question relates a different problem in as much as the entire panel of jurors were excused for the period of five days.

In this situation where the entire panel of jurors were excused for the period of five days, it is the opinion of this office that the county would be justified to pay the extra mileage incurred.

LESLIE R. BURGUM

Attorney General